

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NICK PEARSON, FRANCISCO
PADILLA, CECILIA LINARES,
AUGUSTINA BLANCO, ABEL
GONZALEZ, and RICHARD JENNINGS,
On Behalf of Themselves and All Others
Similarly Situated,

Plaintiffs,

v.

NBTY, INC., a Delaware corporation; and
REXALL SUNDOWN, INC., a Florida
corporation; and TARGET
CORPORATION, a Minnesota
Corporation,

Defendants.

Case No.: 11 CV 07972

CLASS ACTION

Judge James B. Zagel

**MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT**

Pursuant to Fed. R. Civ. P. 23, Plaintiffs Augustina Blanco, Abel Gonzalez, Cecilia Linares, Francisco Padilla, and Nick Pearson, by their counsel Bonnett, Fairbourn, Friedman & Balint, P.C., Stewart M. Weltman LLC (Of Counsel Levin Fishbein Sedran & Berman), and Levin Fishbein Sedran & Berman, and Plaintiff Richard Jennings, by his counsel Denlea & Carton LLP, respectfully move the Court for preliminary approval of the class settlement, more fully set forth and described in detail in the accompanying Memorandum in Support of Preliminary Approval of Class Settlement, and the entry of an order: (1) preliminarily approving the Settlement Agreement as being fair, reasonable, and adequate; (2) approving the Notice Plan attached to the Settlement Agreement; (3) setting the date and time of the Fairness Hearing; (4)

provisionally certifying the Class under Rule 23 of the Federal Rules of Civil Procedure for settlement purposes only (the "Settlement Class"); (5) provisionally appointing Plaintiffs as representatives of the Settlement Class; and (6) provisionally appointing, Stewart M. Weltman (Stewart M. Weltman, LLC, Of Counsel Levin Fishbein Sedran & Berman), Elaine A. Ryan (Bonnett, Fairbourn, Friedman & Balint, P.C.), and Jeffrey I. Carton and Peter N. Freiberg (Denlea & Carton LLP), as Class Counsel.¹

DATED: May 7, 2013

Respectfully submitted,

By: /s/Stewart M. Weltman
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Attorneys for Plaintiff Richard Jennings

¹ The proposed form of order agreed to by the parties is attached as Exhibit F to the Settlement Agreement (Attached as Exhibit 1 to the Memorandum in Support of Preliminary Approval of Class Settlement).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 7th day of May, 2013, a copy of the foregoing Motion For Preliminary Approval of Class Settlement was filed with the Clerk of Court using the CMM/ECF system which will send notification of such filing to the following:

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/s/Stewart M. Weltman